

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Edward Butowsky,

Plaintiff,

v.

Michael Gottlieb, et al.,

Defendants

Case No. 4:19-cv-00180-ALM-kpj

**PLAINTIFF’S REPLY REGARDING
NOTICE OF SUPPLEMENTAL EVIDENCE**

NOW COMES Edward Butowsky, the Plaintiff, replying to the Federal Bureau of Investigation’s Response to Plaintiff’s Notice of Supplemental Evidence (hereinafter “FBI Response”) (Doc. No. 242):

Introduction

The Plaintiff did not intend to set off another round of debate about the merits of his Corrected Motion to Compel Federal Bureau of Investigation to Comply with Subpoena Duces Tecum (hereinafter “Corrected Motion”)(Doc. No. 179) or his Supplemental Motion to Compel Federal Bureau of Investigation to Comply with Subpoena Duces Tecum (Doc. No. 189). Instead, he wished to make the Court aware of new evidence that was relevant to his earlier arguments. Unfortunately, the FBI Response filed by Asst. U.S. Attorney Robert A. Wells makes some false representations that need to be corrected.

Argument

Footnote 1 of the FBI Response is, at best, deceptive. For starters, the Plaintiff has never suggested that the FBI investigated the death of Seth Rich. Instead, the Plaintiff alleged that the FBI investigated Mr. Rich's role in transferring emails to Wikileaks. The bigger deception, however, is found in the following sentence: "When asked if the FBI conducted an analysis or investigation of Seth Rich's computer, Ms. Sines responded that she was 'not allowed to answer' and that she was 'not allowed to say that the FBI or anybody else looked at Seth's computers.'" FBI Response 2, n.1, citing Transcript of the March 20, 2020 Testimony of Deborah Sines (hereinafter "Sines Transcript")(Doc. No. 240-1) 33-34 and 36-37. In the same context, however, Ms. Sines admitted that she told journalist Michael Isikoff that the FBI examined Mr. Rich's computer, *and then she testified that her statement to Mr. Isikoff was true*. Sines Transcript 37-38; *also compare id.* at 89-90 *with* Sines Transcript Exhibit 1 (Doc. No. 240-2) 4-5. In other words, Ms. Sines testified that the FBI examined Mr. Rich's computer. Mr. Wells should be ashamed of himself for cherry-picking quotes in an attempt to deceive the Court.

Mr. Wells's next attempts to conflate the Freedom of Information Act with the standards governing a Rule 45 subpoena.¹ He cites no authority and makes no attempt to explain how a finding that the FBI conducted a "reasonable" search for FOIA purposes is supposed to excuse the FBI from complying with a subpoena *duces tecum* under Rule 45.

¹ Incidentally, the judicial finding from New York is the subject of a Rule 59 motion for reconsideration, precisely because the New York court did not have the transcript of Ms. Sines's testimony at the time it ruled. *See* Motion for Reconsideration (Doc. No. 60), *Ty Clevenger v. U.S. Department of Justice, et al.*, Case No. 1:18-cv-1568-LB (E.D.N.Y.), attached hereto as Exhibit 1.

The Plaintiff will not attempt to rebut an argument that Mr. Wells failed to make in the first instance. Finally, Mr. Wells recycles arguments that he previously asserted regarding the Court's ruling in *Ed Butowsky v. David Folkenflik, et al*, Case No. 4:18-cv-442 (E.D. Tex.). See Federal Bureau of Investigation's Response in Opposition to Plaintiff's Supplemental Motion to Compel (Doc. No. 191). The Plaintiff will therefore direct the Court's attention to the Plaintiff's Reply in Support of Supplemental Motion to Compel Federal Bureau of Investigation to Comply with Subpoena Duces Tecum (Doc. No. 197).

Respectfully submitted,

/s/ Ty Clevenger

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Certificate of Service

I certify that a copy of this document was filed electronically with the Court's ECF system on June 1, 2020, which should result in automatic notification to all counsel of record.

/s/ Ty Clevenger

Ty Clevenger